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HUMAN RIGHTS COMMITTEE

Fifty-sixth session

SUMMARY RECORD OF THE 1496th MEETING

Held at Headquarters, New York,
on Tuesday, 2 April 1996, at 10 a.m.

Chairman: Mr. AGUILAR

later: Mr. BÁN
(Vice-Chairman)

later: Mr. AGUILAR
(Chairman)

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The meeting was called to order at 10.10 a.m.

ORGANIZATIONAL AND OTHER MATTERS (continued)

Membership of working groups

1. The CHAIRMAN announced that at the July 1996 session, the Working Group on Article 40 would be composed of Mr. Francis, Mr. Kretzmer, Ms. Medina Quiroga, and himself. The Working Group on Communications would be composed of Mr. Bán, Mr. Bhagwati, Mr. Bruni Celli, Mr. Pocar and Mr. Prado Vallejo. For the October session, the members of the Working Group on Article 40 would be Mr. Bhagwati, Lord Colville, Mr. Francis and one other, to be decided. The Working Group on Communications would be composed of Mr. Bán, Mr. El-Shafei, Ms. Evatt, Mr. Mavrommatis and himself.

2. Mr. Bán, Vice-Chairman, took the Chair.

Methods of work of the Committee under article 40 of the Covenant

3. Mr. ANDO, speaking as Chairman/Rapporteur of the Working Group on Article 40, introduced a working paper (CCPR/56/WORKMET/2) containing its draft recommendation on methods of work of the Committee under article 40 of the Covenant. After an introductory background paragraph, the Working Group's conclusions and recommendations were given under six headings: consideration of initial periodic reports (paras. 2-5), concluding observations (para. 6), overdue reports (paras. 7-9), follow-up to the activities under article 40 of the Covenant (paras. 10-11), general comments (para. 12) and States parties' comments on the Committee's concluding observations (para. 13).

4. Paragraph 1 was adopted.

Consideration of initial and periodic reports

5. Mr. ANDO observed that paragraph 2 recommended harmonizing the procedure for dealing with initial and periodic reports by setting aside three consecutive meetings for consideration of initial reports as well, since experience had shown that two meetings could be insufficient. The lists of issues would be divided into the usual three sections, but the questions addressed to States appearing for the first time before the Committee would be broader in scope than usual.

6. It was recommended in paragraph 4 that country rapporteurs should, if possible, be appointed two to three sessions in advance of the one at which a given report was to be considered, and should play a greater role in drafting concluding observations; and a system of alternate rapporteurs was proposed.

7. Mr. BRUNI CELLI, referring to the problem of the backlog of reports owing to deferral by the Committee itself, asked what criteria had been established for determining their priority.

8. Mr. ANDO said that generally an attempt was made to follow the order in which the reports had been received; but if a long overdue report came in, it was given priority, thus inevitably throwing off the timing of the others.

9. Mr. EL-SHAFEI, supported by Mr. BHAGWATI, said that initial reports should be given priority over periodic reports because they were the crucial first contact of the State party with the Committee.

10. He also believed that initial reports required three full meetings, because the Committee knew very little about the countries submitting them; although if two days were sufficient, the Committee should be flexible.

11. Mr. POCAR said that it would be unwise to adopt criteria or even guidelines regarding the order in which the Committee should take up reports, for they would become public knowledge and lead some States to feel slighted if others were given priority. The Committee should make its decisions on a case-by-case basis, allowing it to accommodate special reports or requests by States for a particular session. The aim should, of course, be to do away with the backlog.

12. Mr. TISTOUNET (Secretary of the Committee) recalled that the Committee had a daunting backlog of 18 reports, two of them submitted as long ago as 1994. At the same time, the number of overdue reports had risen to 112.

13. Mr. KLEIN proposed, as a general approach in drawing up lists of issues for periodic reports, that the key issues the Committee wanted to discuss should always be put in section I, so that the real problems in the country could be dealt with most fully at the outset.

14. Ms. EVATT said that she agreed with Mr. Klein's suggestion, since invariably more time was spent on section I than on the others. The recommendation in paragraph 4 would give the country rapporteur an opportunity to form an idea of the issues to be identified.

15. Supported by Mr. BUERGENTHAL and Mr. BRUNI CELLI, she said that while three consecutive meetings were needed to deal with an initial report, experience had shown that not all periodic reports had required a full three meetings. Some could be disposed of in only two meetings, thus advancing the Committee's work.

16. Mr. BHAGWATI observed, with regard to paragraph 2, that when the lists of issues were divided into three sections, members asked questions three times, and that was time-consuming. Perhaps it would be better to have the Committee ask questions once, after all three sections of a list of issues had been addressed by the delegation. Also, in the case of initial reports, the lists of issues should raise broader questions that would enable the Committee to provide guidance to the State party.

17. With regard to paragraph 4, it might not be feasible to appoint country rapporteurs so far in advance. Provided the country rapporteur could work with the help of three or four other members of the Committee appointed on an ad hoc basis - an approach that worked well at the current session - one session in advance might be enough.

18. Mr. BUERGENTHAL said that he agreed with Mr. Bhagwati that three separate rounds of questioning took time away from preparation of the concluding observations, which were the whole point of the exercise.

19. Country rapporteurs could perhaps be appointed two to three sessions in advance and then, as suggested by Mr. Bhagwati, they could use the session just before to work with a small working group, thereby allowing the States parties to receive much broader questions ahead of time and reducing the time spent raising them at the meeting.

20. Mr. BRUNI CELLI said that, as a general rule, the Committee should be flexible about the time it devoted to each report. As things stood, the Committee was actually counting on the dilatoriness of States to be able to cope with the volume of reports. If all 132 States parties submitted their reports on time, there would be 26 reports per year, or 9 reports to be dealt with at each session, which was simply impossible. The Committee should begin rationalizing its work, for the problem was a very real one.

21. Mr. POCAR said that the Committee should work out a system that would allow it to deal with the maximum number of reports in the time available. The Committee's past practice had been to devote two meetings to consideration of initial reports and three to periodic reports. That system had been predicated on the assumption that the initial report represented the Committee's first contact with a State party; a more thorough examination of substantive issues would begin only with the second periodic report.

22. If the Committee harmonized its practice so that the range and depth of issues dealt with during consideration of initial reports was the same as the procedure followed in the case of periodic reports, it would be advisable to devote three meetings to initial reports and two to periodic reports. Such an approach would also save time in that there were fewer initial than periodic submissions.

23. He endorsed the suggestion that section I of a list of issues should deal with the most important questions. The reference in paragraph 2 to the "ordinary three" sections should be replaced with a more general reference to division into sections. The Committee would thus be left free to decide how general or specific the list of issues should be.

24. Mrs. CHANET said that she had suggested looking at the ideas contained in paragraph 2 in the light of experience gained during the current session. The most recent initial reports considered by the Committee had not been representative and she was therefore wary of making fundamental changes to the Committee's procedure for dealing with initial reports. Regarding later periodic reports, all that was needed from the State party was an update which did not require three meetings. She therefore favoured instituting a flexible approach for dealing with periodic reports while keeping the issues raised in initial reports as general as possible.

25. Mr. FRANCIS said that the Committee should not be overly dogmatic regarding the way it considered initial reports. The time it chose to spend on them depended entirely on their contents. However, if all reports were consistent with the published guidelines there would be no problem in considering them

according to the same pattern, and he wondered whether the Committee should do more to encourage a closer adherence to its guidelines.

26. Mr. KLEIN said that he favoured retaining as much flexibility as possible with regard to the consideration of initial reports. The methodology chosen in the case of Nigeria had worked well, but more normal practice would be to deal generally with the position of the Covenant in the State party's legal system in section I of the list of issues, and then move on to the most important issues in section II.

27. Mr. BUERGENTHAL, referring to paragraph 4, assumed that country reports would be translated and made available at least two sessions in advance of the their being considered by the Committee.

28. Mr. TISTOUNET (Secretary of the Committee) said that in principle it would be possible to make reports available well in advance of consideration, but availability depended to a large extent on what reports the Committee chose to take up. In addition, he reminded the Committee that, owing to the precarious financial situation of the United Nations, there had been and would continue to be significant problems in respect of translation and reproduction of documents.

29. The CHAIRMAN said that the various suggestions and comments of members would entail significant changes to the Committee's working methods. He was concerned that not all members of the Committee were present and could not therefore contribute to the debate. Their absence was not too serious, however, since most of the suggestions were simply designed to introduce greater flexibility into the Committee's work.

30. Mr. ANDO summed up by saying that there appeared to be general consensus that more time was needed to consider initial reports, possibly three meetings. The various issues raised during the consideration of such reports needed to be more tightly organized. Nevertheless, the two main areas which had to be dealt with in the consideration of any initial report were the legal framework in which the Covenant operated and the observance of rights guaranteed by the Covenant. With regard to periodic reports, States parties should be asked to concentrate on specific issues peculiar to the country concerned. There seemed to be a consensus that two meetings would suffice for the consideration of each periodic report.

31. The past practice with regard to country rapporteurs had been to appoint them one session in advance of consideration of the relevant report. It would perhaps be possible to appoint them two sessions in advance, but any sooner than that would be impracticable. The idea of alternate rapporteurs did not appear to enjoy wide support, and therefore he suggested that rapporteurs should simply be assisted in their duties.

32. Regarding the order in which reports should be taken up, there seemed to be a general movement towards a more flexible approach. It was also important to deal as fairly as possible with the States parties concerned.

33. Mr. TISTOUNET (Secretary of the Committee) confirmed that the Committee secretariat had noted the following changes in the methodology of considering initial and periodic reports. With effect from the Committee's July session,

three meetings would be devoted to initial reports and two to periodic reports. In paragraph 2 of the recommendations, the words "ordinary three" would be deleted from the third sentence. Mention would be made in paragraph 2 of the general need to adopt a flexible approach to the consideration of reports, and the nature and relative importance of the issues to be dealt with under each section.

34. The reference to "alternate rapporteurs" would be deleted from paragraph 4; country rapporteurs would simply be "assisted by" other members of the Committee. If the Committee intended to adopt the measures outlined in paragraph 4, country rapporteurs for both the July and October sessions of the Committee should be appointed at the current session. The Committee secretariat would then undertake to provide country rapporteurs with background information on the country concerned.

35. Mr. ANDO said that he had been working on the assumption that any changes to the Committee's method of work would be discussed with absent members. He also stressed the importance of letting States parties know about the changes that had been made.

36. Mr. KLEIN said that there was no need to change the guidelines which the Committee issued to States parties. The guidelines merely provided information on how to compile reports.

37. Mr. POCAR reminded the Committee that in the past it had pronounced on the methods it used in considering reports, and any such pronouncements would have to be amended if appropriate. He recalled a document issued in 1989 dealing with the relative importance of issues in connection with third periodic reports, which had merely indicated that such reports should be more precise and concise than previous reports, and should concentrate on new developments or areas that had given rise to concern during the consideration of earlier reports.

38. Mr. TISTOUNET (Secretary of the Committee) said that the two most recent reports of the Human Rights Committee had contained fairly discursive comments on the Committee's working methods and guidelines on how States parties could best comply with those methods. The report of the session would be the most logical place to signal any changes in working methods.

39. The CHAIRMAN said he took it that the Committee wished to adopt the recommendations of the Working Group on the consideration of initial and periodic reports, as orally amended.

40. It was so decided.

Concluding observations (Committee's comments)

41. Mr. ANDO said that paragraph 6 of the recommendations of the Working Group, which dealt with the Committee's concluding observations on States parties' reports, was intended to rationalize the Committee's work and shorten the time spent on such observations. According to past practice, the country rapporteur had prepared the observations and circulated his or her draft among other members of the Committee, who had then had the opportunity to submit changes in

writing. The country rapporteur had then reworked the text taking into account other members' written suggestions. Unless absolutely necessary, it was felt that members should subsequently not be permitted to make oral amendments to the new version. However, the onus was on the country rapporteur to explain why he or she had not incorporated any proposed written amendment into the new draft.

42. Ms. EVATT said that she could accept paragraph 6 as it stood, but that it did not deal fully with the situation. Draft concluding observations were circulated to the members, who suggested any changes that they would like to see made. The rapporteur then produced a revised draft for the plenary. In order to avoid wasting time, when the Committee was given the final draft for adoption, members should be invited to provide the rapporteur with any further draft amendments in writing before the session, and new amendments from the floor should not be allowed during the discussion.

43. The CHAIRMAN said that while the proposal was helpful, it would give rise to technical difficulties.

44. Mr. BUERGENTHAL reminded the Committee that it had previously decided to use the term "concluding observations" rather than "concluding comments" in order to avoid confusion with general comments. Concerning the last sentence in paragraph 6, he agreed that when the final draft was discussed, a new paragraph-by-paragraph discussion tended to begin. If all final amendments were submitted in writing, the plenary Committee could focus exclusively on those.

45. Mr. BHAGWATI remarked that the procedure outlined in the last sentence in paragraph 6 would be difficult to implement unless the revised draft came before the meeting of the Committee, as members must have an opportunity to examine the revised draft. Discussion in the plenary Committee could then be limited, not to issues identified by country rapporteurs, but to issues raised by members in regard to concluding observations.

46. Mr. Aguilar, Chairman, resumed the Chair.

47. Mr. ANDO stated that the Working Group had wanted to suggest that country rapporteurs should submit their reports in good time. A country rapporteur might or might not incorporate suggested amendments into his or her draft, and in either case the rapporteur in question had to explain the reasons to the plenary. Discussion in the plenary could then follow. That was the fairest way. The introduction of last-minute amendments, however, involved the danger of creating confusion.

48. Mr. FRANCIS pointed out that not every idea put forward in response to the first draft received from the country rapporteur could be accommodated in the text. In the event a suggestion was not accepted, it was ordinarily to be assumed that there had been overriding considerations or more important suggestions from other Committee members. If no comment had been made to the country rapporteur, presumably none would be called for in the plenary Committee. After the draft text had been scrutinized by all members, the English version could be issued.

49. Mr. BHAGWATI said that last-minute amendments were not the issue; the important point was that the general observations should reflect the dialogue

between the Committee and the delegation of the country concerned. Discussion in plenary meeting could then be limited to issues raised by Committee members during that dialogue. However, if a member felt that something had been left out, he or she should be allowed to introduce it in plenary meeting. Ideally, the revised draft should be brought before the plenary Committee the day before the concluding observations were taken up for discussion.

50. Mr. EL-SHAFEI said that during the session, the Committee had devised a new method whereby four or five Committee members had concentrated on each country report. The method had worked well, with each group producing a good clean text in short order. All that remained was observations by other members who had not participated in such smaller groups. They should contribute their observations during the preparation of the final text, before it came to the floor. The members would then have an opportunity of examining all amendments in good time, and a clean text could be brought before the Committee, which would save time. He suggested that the final sentence in paragraph 6 be amended by insertion of the words "as suggestions which have not yet been approved" after "country rapporteurs".

51. Mr. FRANCIS pointed out that the Committee's closing remarks, i.e. the paper that was sent to the State party concerned, would have been seen by anyone who had attended the meetings and would be deemed to carry the weight of the Committee's authority. Seldom was a comment attributed to an individual member of the Committee. Consequently, a country rapporteur would ordinarily identify the concluding observations as having been the subject of consensus.

52. Mr. BUERGENTHAL said that there was a twofold problem with the last sentence of paragraph 6. In the first place, there was a need to deal with proposed amendments which the country rapporteur had not accepted; they should certainly be taken up. In the second place, changes to the draft resulting from amendments which the rapporteur had taken up should also be considered. Both points could be adequately addressed by referring specifically to "amendments which the country rapporteur could not accept, as well as to issues which, because of amendments taken up by the rapporteur, changed some provisions of the draft" in the last sentence.

53. The CHAIRMAN recalled that the discussion of final observations at the end of each session took up a good deal of time. One idea for expediting matters was that each time the members were given a draft, they should give their amendments in writing. The rapporteur, or, better, the Working Group, should incorporate those amendments that reflected the discussion and reject those which had not been taken up during examination of the report. Discussion would then be limited to those amendments, and not be open to contributions from the floor. Another idea was that members who did not turn in their comments would be waiving their right to comment later, unless they gave notice in writing of their intent to do so.

54. He suggested that with Mr. Buergenthal's amendments and those to which Mr. Tistounet had referred earlier, paragraph 6 could now be approved.

55. Mr. ANDO said that he was prepared to accept the paragraph. However, while he agreed that amendments which had not been accepted by the country rapporteur

should be discussed, those which had been accepted should not, beyond minor matters of wording and the like.

56. Mr. BUERGENTHAL explained that his amendment was intended to reflect the fact that a country rapporteur sometimes accepted an amendment in a form which changed the meaning to a degree that other members might find unacceptable.

57. Mr. EL-SHAFEI said that the idea was simply that when the text was introduced, the country rapporteur would indicate what changes had been incorporated.

58. The CHAIRMAN noted that when the country rapporteur did not accept a member's amendment, the member could raise the issue in plenary meeting. Sometimes, however, after the members had accepted a draft, the country rapporteur introduced changes in accordance with suggestions made by other members. In such cases, those members who had not wanted the changes in question made should have the right to discuss them.

59. Mr. EL-SHAFEI said that after the changes had been incorporated, the entire text should be submitted for discussion.

Overdue reports

60. Mr. ANDO introduced paragraphs 7, 8 and 9. Introducing paragraph 7, he said that the problem of States whose reports were overdue was becoming progressively more serious: there were approximately 20 States with two reports overdue, and seven with three overdue. In the Working Group's view, those States should be encouraged to submit any reports, and whatever reports they did submit should be taken up for consideration; the States concerned should then be given a new date. The Committee's previous practice had been to try to get such dilatory States back on schedule, but that had proved impracticable. Once a State had submitted its initial report, it could be asked to submit periodic reports at intervals of four years or less, instead of at five-year intervals. Flexibility was desirable.

61. A concern for flexibility also informed the Working Group's suggestion in paragraph 8 to the effect that States which encountered difficulty in submitting reports in the specified form might, on an exceptional basis, be allowed to submit oral reports instead.

62. With regard to paragraph 9, the Working Group's suggestion of publicizing the list of overdue reports was designed to avoid encouraging States to delay submitting their reports.

63. Mr. BRUNI CELLI recalled that the idea of consolidated reports from States whose reports were overdue had been discussed before. It had much merit, especially in the case of States with three reports overdue. The Centre for Human Rights in Geneva might be able to provide assistance in some instances. However, it was important for the Committee not to lose sight of its goals and purposes: it was not concerned with the formal details of the reporting process as such, but, in line with the provisions of article 40 of the Covenant, with the actual situation in the country concerned.

64. The proposed oral reports would involve difficulties, especially if the Committee had to deal with several of them at once. The idea might be feasible, provided an oral report was not a consolidation of several overdue reports of the type contemplated above, but only one overdue report. The publication of the list of overdue reports is a potentially useful measure.

65. Mr. LALLAH said that he understood the reason for the suggestion: an oral report was better than no report at all. However, written reports were greatly preferable. They constituted a permanent record. The Committee's reports were widely used, by non-governmental organizations among others. With oral reports, there would be no opportunity for Committee members to prepare for a country's report with the assistance of non-governmental organizations. Oral reports would be regarded as less worthy of being taken seriously, and the issue of unequal treatment of States parties would arise. States that came before the Committee were often asked what publicity their reports had been given in their respective countries; nothing of the sort would be possible with oral reports.

66. Mr. FRANCIS said that he agreed entirely with Mr. Lallah's remarks; in addition, another advantage of written reports was that members could take time to read them at their convenience. However, it would be desirable to encourage States that were delinquent with their reports under article 40 to take advantage of the opportunity to present an oral report. With respect to the consolidation of overdue reports, a four-year period for delinquent States was too generous; the worst offenders might relapse into the bad habit of not submitting reports at all. He suggested a period of three years at most; a shorter period would not be desirable, as the report might not contain enough material to be meaningful. The publicity suggested in paragraph 9 was a good idea, but perhaps the States concerned should be notified in advance.

67. Mr. POCAR associated himself with Mr. Lallah's remarks regarding paragraph 8. Although he agreed with the ideas contained in paragraph 7, the wording should be improved. Clearly, when an overdue report was presented, its contents would reflect the situation up to the time of its preparation; however, that did not mean that in such situations a State party should be permitted to submit a comprehensive report covering a period which should have been covered by two or more periodic reports. For example, the report immediately following a State party's initial report should be considered as its second report, however overdue it was. Furthermore, the Committee should be free to fix whatever time-frame it saw fit for the presentation of the following report. The Committee should be completely flexible, bearing in mind that a State party that had not complied with the periodicity rule was not entitled to protection under the rule itself.

68. Mr. BHAGWATI fully endorsed the remarks of Mr. Lallah regarding paragraph 8. He recalled that article 40 of the Covenant provided for written, not oral, reports. Regarding paragraph 9, he agreed that a list of the most seriously overdue reports should be made public at the end of the Committee's sessions; it would be appropriate to use that means of applying pressure to those States parties whose reports were seriously overdue. However, he suggested that the paragraph should specify a number of years in excess of which a State party would be included in the report, rather than a vague term such as "the most seriously overdue reports". He shared the views of Mr. Pocar concerning paragraph 7.

69. Mr. KLEIN said that he, too, shared Mr. Pocar's views on paragraph 7, and agreed with the remarks of the previous speakers regarding paragraph 8. Article 40 of the Covenant clearly required States parties to submit written reports; however, in the case of States parties which did not fulfil that obligation, an oral dialogue with the Committee might be the only opportunity for the latter to establish contact with the State party and to discuss the human rights situation in the country concerned. It would therefore perhaps be inappropriate to rule out completely such a possibility.

70. Mr. BUERGENTHAL agreed that it would not be wise or appropriate for the Committee to request an oral report from a State Member in place of a written report. However, there was a growing number of overdue reports, and something had to be done to put pressure on States parties in order to improve the situation. It would not be improper for States parties, starting with those whose reports were the longest overdue, to send a representative to a meeting of the Committee to explain the reason for the delay and to inform the Committee as to when the report would be produced. He expressed agreement with the remarks of Mr. Pocar on the subject of paragraph 7 and with those of Mr. Bhagwati regarding paragraph 9.

71. Mrs. CHANET said that the Working Group had decided not to rule out the question of oral reports, because of the considerable material difficulties which States parties often encountered in preparing their written reports. It was often the case that States parties which were in such situations were none the less willing to engage in a dialogue with the Committee. Furthermore, it should be borne in mind that in many cases, the written reports submitted by States parties contained little useful information, and it was when the accompanying oral presentation was made that a genuine and useful exchange of information and views took place. The wording of paragraph 8 could perhaps be amended in such a way as to avoid absolutely excluding the possibility of States parties presenting oral reports, while making it clear that it would be permitted only in very exceptional circumstances and at the initiative of the Committee.

72. Mr. TISTOUNET (Secretary of the Committee) recalled that there had been a number of special cases in which States parties which had real practical difficulties in producing a report of the type required under article 40 had submitted "reports" which were more akin to core documents. It should be borne in mind that in some cases the receipt of such a document had been followed by a meeting with the State party during which the Government had provided orally the type of information required by the Committee.

73. Mr. LALLAH said that the type of document described by Mr. Tistounet could arguably be said to be a report under article 40 of the Covenant. In such cases, the Committee should grasp the opportunity offered to it to establish a dialogue with the State party. It was also possible that in certain cases the Committee might wish to request a State party to report to the Committee on its general legal framework; that would serve as a useful starting-point and could lead to more detailed discussions of the progress achieved by that State and the difficulties it had encountered.

74. Mr. FRANCIS said that it would be far preferable to encourage States parties to send written reports, even in abridged form, to be complemented by

their oral presentations to the Committee. He also agreed that States parties which were having difficulty in producing written reports should be encouraged to avail themselves of technical assistance from the Centre for Human Rights.

75. Ms. EVATT agreed that the Committee should keep a very flexible approach to States parties which had been late with several reports. Without releasing them from their obligations, it was possible to be flexible as to the time-frame for their later reports. As to paragraph 8, although she would have been satisfied with the wording as it stood, the most important thing was for the Committee to create an opportunity to have a discussion with the representatives of States parties which were very late with their reports. The most appropriate approach might be to invite them to have an initial exploratory dialogue with the Committee; that could lead to better understanding and enable agreements to be reached as to how the reporting process would proceed. It was quite unacceptable for a State party to continue for 10 or 15 years without submitting anything in writing to the Committee or sending any representative to appear before it. She could accept an amendment to paragraph 8 to the effect that States parties would be invited to send representatives to discuss their problems with the Committee.

76. Mr. BHAGWATI recalled that there was no scope under the terms of the Covenant for an oral report to be accepted in place of a written report. However, it would be legitimate to invite a State party to send a representative to discuss the reasons for an undue delay in the submission of its report; that would be an entirely different matter, and would in some cases enable the Committee to advise the State party to obtain technical assistance from the Centre for Human Rights.

77. Mr. BÁN said that the Committee appeared to have reached a general consensus regarding paragraph 7, at least in respect of the amendment proposed by Mr. Pocar. Regarding paragraph 8, he was inclined to agree with the remarks of Mr. Lallah. When States parties had material difficulties in preparing written reports, the Committee should decide on a case-by-case basis. As to the proposal made by Ms. Evatt, it seemed likely that when a State party was unwilling or unable to submit a written report, if it was invited to send a representative to a meeting of the Committee, it would send an ambassador rather than a member of the Government; he did not however oppose the proposal.

78. He had some difficulty with the current wording of paragraph 9, which seemed to suggest that at the end of each of the Committee's sessions, a list of "guilty" States parties would automatically be published. That would be unfair in cases where States parties had encountered genuine material difficulties in preparing their reports. In any case, the Committee's annual reports contained lists of States parties whose reports were overdue.

79. Mr. POCAR recalled that the five-year period between reports had been fixed by the Committee, and that if a State party failed to adhere to that schedule, it placed itself outside the usual procedure and the Committee could then decide what should be done.

80. Mr. BRUNI CELLI recalled that article 40, paragraph 1 (a), of the Covenant, required States parties to present their initial reports within one year of the entry into force of the Covenant, and that the Committee had decided that

reports should be presented every five years thereafter. He wondered whether any change in the Committee's rules of procedure would be required in order to allow for exceptions to the generally established periodicity of State party reports.

81. Ms. MEDINA QUIROGA, supported by Mr. Klein, suggested that the wording of paragraph 8 might be amended to the effect that States parties having difficulty in preparing written reports might be invited to submit reports on specific articles of the Covenant rather than on the Covenant as a whole; it would also be useful for that paragraph to allow for the possibility of inviting a representative of a State party to meet with the Committee to discuss the difficulties it was encountering. Such provisions would only be used when the Committee considered it necessary to do so.

82. The CHAIRMAN, speaking in his personal capacity, said that he had some difficulties with paragraph 8. It was important to take into account Mr. Lallah's remarks concerning what was permissible under article 40 of the Covenant. Also, when a State party submitted a report under article 40, even if that report did not comply with the Committee's guidelines or was in fact a core document rather than a report in the usual sense of the word, it should nonetheless be accepted as a report under article 40 when that was clearly the intent of the State party.

83. Regarding the consolidation of reports, he agreed with the remarks of Mr. Pocar and Mr. Lallah. When States parties claimed to be having difficulties in preparing written reports, their representatives should be invited to meet with the Committee as a whole to explain those difficulties. He considered that in many cases the reasons given by States parties for their reports being overdue lacked credibility, since the resources required for the preparation of a written report were not very great. Appropriate pressure should be brought to bear when certain States parties appeared reluctant to fulfil their obligations to submit regular written reports to the Committee.

84. He said that a new draft of paragraphs 7, 8 and 9 would be prepared for the next meeting, and he hoped that consensus would be achieved at that time.

The meeting rose at 1.05 p.m.